

Senate File 139 - Introduced

SENATE FILE 139

BY McCOY

A BILL FOR

1 An Act establishing a criminal penalty for violent repeat
2 offenders, reducing earned time for offenders required
3 to participate in batterers' education under certain
4 circumstances, providing for risk assessments, and relating
5 to electronic tracking and monitoring.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 901.2, subsection 2, paragraph d, Code
2 2017, is amended by adding the following new subparagraph:

3 NEW SUBPARAGRAPH. (4) A risk assessment when the offense
4 is a domestic abuse assault in violation of section 708.2A, or
5 harassment in violation of section 708.7.

6 Sec. 2. Section 901.3, Code 2017, is amended by adding the
7 following new subsection:

8 NEW SUBSECTION. 1A. The performance of a risk assessment
9 shall be required as part of a presentence investigation under
10 subsection 1 for domestic abuse assault in violation of section
11 708.2A, harassment in violation of section 708.7, or stalking
12 in violation of section 708.11.

13 Sec. 3. Section 903A.2, subsection 1, paragraphs a and b,
14 Code 2017, are amended to read as follows:

15 a. (1) Category "A" sentences are those sentences which
16 are not subject to a maximum accumulation of earned time of
17 fifteen percent of the total sentence of confinement under
18 section 902.12 and those sentences which are not violent
19 repeat offender sentences under section 903A.8. To the extent
20 provided in subsection 5, category "A" sentences also include
21 life sentences imposed under section 902.1. An inmate of an
22 institution under the control of the department of corrections
23 who is serving a category "A" sentence is eligible for a
24 reduction of sentence equal to one and two-tenths days for each
25 day the inmate demonstrates good conduct and satisfactorily
26 participates in any program or placement status identified by
27 the director to earn the reduction. The programs include but
28 are not limited to the following:

29 (a) Employment in the institution.

30 (b) Iowa state industries.

31 (c) An employment program established by the director.

32 (d) A treatment program established by the director.

33 (e) An inmate educational program approved by the director.

34 (2) (a) ~~However, an~~ An inmate required to participate in
35 a sex offender treatment program shall not be eligible for a

1 reduction of sentence unless the inmate participates in and
2 completes a sex offender treatment program established by the
3 director.

4 (b) An inmate required to participate in a batterers'
5 treatment program shall not be eligible for a reduction of
6 sentence unless the inmate participates in and completes a
7 batterers' treatment program established by the director.

8 (3) An inmate serving a category "A" sentence is eligible
9 for an additional reduction of sentence of up to three hundred
10 sixty-five days of the full term of the sentence of the inmate
11 for exemplary acts. In accordance with [section 903A.4](#), the
12 director shall by policy identify what constitutes an exemplary
13 act that may warrant an additional reduction of sentence.

14 b. Category "B" sentences are those sentences which are
15 subject to a maximum accumulation of earned time of fifteen
16 percent of the total sentence of confinement under section
17 902.12 or which are violent repeat offender sentences under
18 section 903A.8. An inmate of an institution under the control
19 of the department of corrections who is serving a category
20 "B" sentence is eligible for a reduction of sentence equal to
21 fifteen eighty-fifths of a day for each day of good conduct by
22 the inmate.

23 **Sec. 4. NEW SECTION. 903A.8 Violent repeat offender.**

24 1. A violent repeat offender is any person convicted of a
25 felony offense under chapter 707, 708, 709, 710, 711, or 713,
26 who has previously been convicted of any two felony violations
27 under chapter 707, 708, 709, 710, 711, or 713.

28 2. Notwithstanding subsection 1, a person shall not be
29 considered to be a violent repeat offender if the conviction
30 that would otherwise make the offender a violent repeat
31 offender is a conviction for murder in the second degree in
32 violation of section 707.3, attempted murder in violation of
33 section 707.11, sexual abuse in the second degree in violation
34 of section 709.3, kidnapping in the second degree in violation
35 of section 710.3, robbery in the first degree in violation of

1 section 711.2, or robbery in the second degree in violation
 2 of section 711.3. However, a prior conviction for murder in
 3 the second degree in violation of section 707.3, attempted
 4 murder in violation of section 707.11, sexual abuse in the
 5 second degree in violation of section 709.3, kidnapping in the
 6 second degree in violation of section 710.3, robbery in the
 7 first degree in violation of section 711.2, or robbery in the
 8 second degree in violation of section 711.3 shall be counted
 9 as a previous conviction in determining whether a person is a
 10 violent repeat offender due to the most recent conviction.

11 3. An offense is a felony if, by the law under which the
 12 person is convicted, it is so classified at the time of the
 13 person's conviction.

14 4. For purposes of this section, felony conviction
 15 includes any felony conviction in another jurisdiction that is
 16 comparable to a felony listed in subsection 1 or any conviction
 17 under the prior laws of this state or another jurisdiction,
 18 that is comparable to a felony conviction listed in subsection
 19 1.

20 Sec. 5. NEW SECTION. 905.16 Electronic tracking and
 21 monitoring system — domestic abuse.

22 A person placed on probation, parole, work release, special
 23 sentence, or any other type of conditional release for domestic
 24 abuse assault in violation of section 708.2A, harassment in
 25 violation of section 708.7, stalking in violation of section
 26 708.11, or for a violation of any other offense, may be
 27 supervised by an electronic tracking and monitoring system for
 28 a period of time to be determined by the court, in addition to
 29 any other conditions of supervision.

30 EXPLANATION

31 The inclusion of this explanation does not constitute agreement with
 32 the explanation's substance by the members of the general assembly.

33 This bill establishes a criminal penalty for a violent
 34 repeat offender and reduces earned time for offenders
 35 required to participate in batterers' education under certain

1 circumstances, provides for risk assessments, and relates to
2 electronic tracking and monitoring.

3 If a presentence investigation is required prior
4 to sentencing, the bill requires that the presentence
5 investigation include a risk assessment of the offender, if the
6 offender was convicted of domestic abuse assault in violation
7 of Code section 708.2A, harassment in violation of Code section
8 708.7, or stalking in violation of Code section 708.11.

9 The bill specifies that an offender placed on probation,
10 parole, or work release, or any other type of conditional
11 release for domestic abuse assault in violation of Code section
12 708.2A, harassment in violation of Code section 708.7, stalking
13 in violation of Code section 708.11, or for a violation of any
14 other type offense, may be supervised by an electronic tracking
15 and monitoring system for a period of time to be determined by
16 the court.

17 Under the bill, a violent repeat offender is any person
18 convicted of a more serious felony under Code chapter
19 707 (homicide), 708 (assault), 709 (sexual abuse), 710
20 (kidnapping), 711 (robbery and extortion), or 713 (burglary)
21 who has twice before been convicted of any felony violation
22 under those Code chapters.

23 An offender who is serving a violent repeat offender
24 sentence under the bill is only eligible for a reduction of
25 sentence equal to fifteen eighty-fifths of a day for each
26 day of good conduct by the offender. Most other offenders
27 are eligible for a reduction of sentence equal to one and
28 two-tenths days for each day the inmate demonstrates good
29 conduct. The fifteen eighty-fifths of a day for each day
30 of good conduct by a repeat violent offender equals the same
31 rate of reduction of sentence for an offender who is serving
32 a 70 percent sentence under Code section 902.12. However, an
33 offender serving a violent repeat offender sentence is not
34 required to serve seven-tenths of the maximum term of the
35 sentence prior to being eligible for parole or work release as

1 an offender serving a 70 percent sentence is required to serve.
2 In order to preserve the service of a 70 percent sentence by
3 an offender, a person shall not be a violent repeat offender
4 if the most recent conviction that would otherwise make the
5 offender a violent repeat offender is a conviction for murder
6 in the second degree in violation of Code section 707.3,
7 attempted murder in violation of Code section 707.11, sexual
8 abuse in the second degree in violation of Code section 709.3,
9 kidnapping in the second degree in violation of Code section
10 710.3, robbery in the first degree in violation of Code section
11 711.2, or robbery in the second degree in violation of Code
12 section 711.3. However, a prior conviction for murder in the
13 second degree, attempted murder, sexual abuse in the second
14 degree, kidnapping in the second degree, robbery in the first
15 degree, or robbery in the second degree shall be counted as
16 a previous conviction in determining whether a person is a
17 violent repeat offender.
18 The bill provides that an inmate at a correctional
19 institution who is required to participate in a batterers'
20 education program is not eligible for a reduction of sentence
21 under Code section 903A.2(1)(a) unless the inmate participates
22 in and completes the batterers' education program established
23 by the director of the department of corrections.